

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
METROPOLITAN TRANSPORTATION :
AUTHORITY and TRIBOROUGH BRIDGE AND :
TUNNEL AUTHORITY, :
:

Plaintiffs, :

and :

NEW YORK STATE DEPARTMENT OF :
TRANSPORTATION, RIDERS ALLIANCE, SIERRA :
CLUB, and NEW YORK CITY DEPARTMENT OF :
TRANSPORTATION, :
:

Intervenor-Plaintiffs, :

v. :

SEAN DUFFY, in his official capacity as Secretary :
of the United States Department of Transportation, :
GLORIA M. SHEPHERD, in her official capacity as :
Executive Director of the Federal Highway :
Administration, UNITED STATES DEPARTMENT :
OF TRANSPORTATION, and FEDERAL :
HIGHWAY ADMINISTRATION, :
:

Defendants. :
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No. 25-cv-1413-LJL

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the Memorandum of Law of Intervenor-Plaintiff the New York State Department of Transportation (“State DOT”), and upon all the pleadings and proceedings previously had in the above-captioned action, the undersigned will move this Court pursuant to Federal Rules of Civil Procedure 56, 57, and 65, the Administrative Procedure Act, 5 U.S.C. § 706, and the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, at the Daniel Patrick Moynihan United States

Courthouse, Courtroom 15C, 500 Pearl Street, New York, New York 10007, at such date and time as the Court may set, for an order:

(1) granting partial summary judgment to State DOT on Counts I-IV and VII of the Consolidated Second Amended Complaint [ECF No. 96];

(2) vacating the February 19, 2025 letter from Defendant Duffy to Governor Kathy Hochul purporting to terminate the November 21, 2024 agreement between the Triborough Bridge and Tunnel Authority, the New York City Department of Transportation, and State DOT (the “Project Sponsors”) and Defendant Federal Highway Administration (the “VPPP Agreement”) and rescind federal approval for the Central Business District Tolling Program (the “Program”) (the “February 19 Letter”);

(3) vacating the February 20 and March 20, 2025 letters of Defendant Shepherd directing that tolling operations under the Program should cease (the “Shepherd Letters”);

(4) vacating the April 21, 2025 letter from Defendant Duffy to Governor Hochul purporting to direct State DOT to “show cause” why certain “compliance measures” detailed in the letter should not be implemented (“April 21 Letter”);

(5) converting the preliminary injunction entered by the Court on May 28, 2025 [ECF No. 132] into a permanent injunction;

(6) permanently enjoining Defendants, as well as all persons identified under Federal Rule of Civil Procedure 65(d)(2), from terminating the VPPP Agreement or rescinding federal approval for the Program unless the Project Sponsors agree or

Defendants demonstrate, pursuant to applicable law, that the Project Sponsors failed to comply with the VPPP Agreement's terms and conditions; and

(7) issuing a declaratory judgment that: (a) Defendants lack the authority to terminate the VPPP Agreement or rescind federal approval for the Program unless the Project Sponsors agree or Defendants demonstrate, pursuant to applicable law, that the Project Sponsors failed to comply with the VPPP Agreement's terms and conditions; (b) the February 19 Letter, the April 21 Letter, and the Shepherd Letters are each null, void, and of no effect; and (c) any efforts to enforce the February 19 Letter, including but not limited to the "compliance measures" detailed in the April 21 Letter, are unlawful, and are null, void, and of no effect.

PLEASE TAKE FURTHER NOTICE that, per the parties' schedule, "So-Ordered" by the Court on June 6, 2025 [ECF No. 139], opposition to the motion, if any, is due no later than July 18, 2025, unless otherwise agreed to by the parties or ordered by the Court.

Dated: New York, New York
June 27, 2025

Respectfully submitted,

LETITIA JAMES
ATTORNEY GENERAL
STATE OF NEW YORK

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